

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

457L0748

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

SB 183 - 02/28/2005

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senator Olson (Ed) and Representatives Vehle and Sebert

1 FOR AN ACT ENTITLED, An Act to provide for the conveyance of certain lands dedicated to
2 public purposes that have become impossible or impractical.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Notwithstanding the provisions of §§ 43-25-18 and 43-30-12, whenever any real
5 property is, heretofore or hereafter, conveyed by any grant or devise to be held or used for any
6 religious, educational, charitable, benevolent, or public purpose, with a condition subsequent
7 annexed in the instrument of conveyance that in event the lands shall, at any time, cease to be
8 held or used for the purpose set forth in such conveyance, title shall revert to the grantor or
9 devisor or the heirs, and it appears in the judgment of the officers, trustees, or governing body
10 of the grantee named in such conveyance that because of changed conditions or circumstances
11 since the execution of such conveyance it is impossible or impractical to continue to hold or use
12 the lands for the purpose mentioned in such conveyance and that the religious, educational,
13 charitable, benevolent, or public object of the grantor or devisor, as set forth in such
14 conveyance, may be prevented or defeated thereby, the grantee may file an action in the circuit
15 court of the county in which the lands are situated, setting forth a correct description of such



1 lands and the terms and conditions under which the lands are to be held or used, together with
2 a comprehensive statement of the changed conditions and circumstances which render it
3 impossible or impractical to continue to hold or use the lands for the purpose stated in the
4 conveyance.

5 Section 2. In any action provided for in section 1 of this Act, the heirs of the grantor,
6 reversionary interest holder, or devisor, if known, shall be named as defendants and the action
7 shall be commenced and prosecuted as provided for by existing law for actions against known
8 defendants. If the names or addresses of the heirs of any such grantor or devisee are unknown,
9 the action shall be commenced and prosecuted as provided by existing law for actions against
10 unknown defendants. No such action may be commenced within seventy-five years from the
11 execution of any conveyance.

12 Section 3. If, upon the hearing, it appears to the satisfaction of the court that the allegations
13 in the action are true and that because of changed conditions or circumstances since the
14 execution of such conveyance it is impossible or impractical to continue to hold or use the lands
15 for the purposes limited in such conveyance and that the religious, educational, charitable,
16 benevolent, or public object of the grantor, as set forth in such conveyance, may be defeated
17 thereby, a decree may be entered authorizing the grantee to sell such lands for the highest price
18 obtainable, and directing that the proceeds of the sale of such lands shall be reinvested in other
19 lands suitable for the use or purpose set forth in the original conveyance, subject to any
20 reversionary interest or other interest in the original conveyance.

21 Section 4. No sale of lands under the decree of the court pursuant to this Act defeats the
22 estate of the grantee named in the original conveyance because of the failure to continue to hold
23 or use the land for the purpose named in such conveyance and is sufficient to convey to the
24 purchaser of such land a good and sufficient title in fee simple, free from all conditions or

1 limitations whatsoever, under which the land shall have been held or used.

2 Section 5. As part of the decree or judgment entered in any action commenced under this
3 Act, the court may require that the real property be sold and that the proceeds from the sale be
4 used for similar religious, educational, charitable, benevolent, or public purposes as provided
5 in the original conveyance, and that the condition subsequent contained in the original
6 conveyance attach to the sale proceeds upon such terms and conditions as the court may
7 determine. The court may also require that the sale proceeds be used to purchase other real
8 property or be put to such other uses consistent with the condition subsequent as the court
9 determines.

10 Section 6. Nothing in this Act applies to severed mineral interests.